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and if the proposed changing placement would change the placement of the child from a placement in the home of ~~the child's parent or~~ his or her parent or Indian custodian to a placement outside that home

SECTION 81. 48.357 (1) (c) 1m. of the statutes is created to read:

48.357 (1) (c) 1m. If the child is an Indian child, a request under subd. 1. shall

also contain specific information showing that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1., specific information showing that the agency primarily responsible for implementing the dispositional order has made active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful, a statement as to whether the new placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that order, specific information showing good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 82. 48.357 (1) (c) 2. of the statutes is amended to read:

48.357 (1) (c) 2. The court shall hold a hearing prior to ordering any change in placement requested under subd. 1. Not less than 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the child, the parent, guardian, and legal custodian of the child, the child's court-appointed special advocate, and all parties that are bound by the dispositional order. and, if the child is an Indian child, the Indian child's Indian custodian and tribe. If all parties consent, the court may proceed immediately with the hearing.

SECTION 83. 48.357 (1) (c) 2m. of the statutes is created to read:

48.357 (1) (c) 2m. If the child is an Indian child, notice under subd. 2. to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing on the request may be held until at least 10

Subject to subd 2m if

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if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined,

days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or until at least ⁽¹⁰⁾ days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 84. 48.357 (1) (c) 3. of the statutes, as affected by 2007 Wisconsin Act 1

is amended to read:

48.357 (1) (c) 3. If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings specified in under sub. (2v) (a) 1., the applicable order specified in under sub. (2v) (a) 1m., the applicable statement specified in under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in under sub. (2v) (a) 3. If the court changes the placement of an Indian child from a placement in the ^{home of the} ~~Indian child's home~~ to a placement outside ~~the Indian~~ ^{that} home, the change in placement order shall, in addition, contain the findings under sub. (2v) (a) 4. and comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from the order.

SECTION 85. 48.357 (2m) (a) of the statutes is amended to read:

48.357 (2m) (a) The child, the parent, guardian, or legal custodian, or Indian custodian of the child, the expectant mother, the unborn child by the unborn child's guardian ad litem, or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, may request a change in placement under this paragraph. The request shall contain the

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1 name and address of the new placement requested and shall state what new
 2 information is available that affects the advisability of the current placement. If the
 3 proposed change in placement would change the placement of a child placed in the
 4 child's home to a placement outside the child's home, the request shall also contain
 5 specific information showing that continued placement of the child in the home
 6 would be contrary to the welfare of the child and, unless any of the circumstances
 7 ~~specified in~~ under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that
 8 the agency primarily responsible for implementing the dispositional order has made
 9 reasonable efforts to prevent the removal of the child from the home, while assuring
 10 that the child's health and safety are the paramount concerns. The request shall be
 11 submitted to the court. ~~In addition, the~~ The court may also propose a change in
 12 placement on its own motion. *if the Indian child's parent or Indian custodian*
has her

13 **SECTION 86.** 48.357 (2m) (am) of the statutes is created to read:

14 48.357 (2m) (am) 1. If the proposed change of placement would change the
 15 placement of an Indian child placed in the ~~Indian child's~~ home to a placement outside
 16 ~~the Indian child's~~ *that* home, a request under par. (a) shall also contain specific
 17 information showing that continued custody of the Indian child by the parent or
 18 Indian custodian is likely to result in serious emotional or physical damage to the
 19 child under s. 48.028 (4) (d) 1., specific information showing that the agency
 20 primarily responsible for implementing the dispositional order has made active
 21 efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that
 22 those efforts have proved unsuccessful, a statement as to whether the new placement
 23 is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if
 24 applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance with that

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1 order, specific information showing good cause, as described in s. 48.028 (7) (e), for
2 departing from that order. *his or her*
of the ~~same child's~~ parent or ~~Indian~~ Indian custodian.

3 2. If the proposed change in placement would change the placement of an
4 Indian child placed outside the home to another placement outside ~~the~~ *(his)* home, a
5 request under par. (a) shall also contain a statement as to whether the new
6 placement is in compliance with the order of placement preference under s. 48.028
7 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance
8 with that order, specific information showing good cause, as described in s. 48.028
9 (7) (e), for departing from that order.

10 **SECTION 87.** 48.357 (2m) (b) of the statutes is amended to read:

11 48.357 (2m) (b) The court shall hold a hearing ~~on the matter~~ prior to ordering
12 any change in placement requested or proposed under par. (a) if the request states
13 that new information is available that affects the advisability of the current
14 placement, ~~unless. A hearing is not required if~~ the requested or proposed change in
15 placement ~~involves any change in placement other than~~ does not involve a change
16 in placement of a child placed in the child's home to a placement outside the child's
17 home ~~and~~, written waivers of objection to the proposed change in placement are
18 signed by all persons entitled to receive notice under sub. (1) ~~(am)~~ 1. this paragraph,
19 other than a court-appointed special advocate, and the court approves. If a hearing
20 is scheduled, not less than 3 days before the hearing the court shall notify the child,
21 the parent, guardian, and legal custodian of the child, any foster parent, treatment
22 foster parent, or other physical custodian described in s. 48.62 (2) of the child, the
23 child's court-appointed special advocate, all parties who are bound by the
24 dispositional order, and, if the child is an Indian child, the Indian child's Indian
25 custodian and tribe. If the child is the expectant mother of an unborn child under

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*& the child's parent or Indian custodian
his or her*

and if the proposed change in placement would change the placement of the Indian child from a placement in the home to a placement outside the home

s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem, or. If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem, and all parties who are bound by the dispositional order, at least 3 days prior to the hearing. A copy of the request or proposal for the change in placement shall be attached to the notice. If all of the parties consent, the court may proceed immediately with the hearing.

SECTION 88. 48.357 (2m) (bm) of the statutes is created to read:

48.357 (2m) (bm) If the child is an Indian child, notice under par. (b) to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). ~~No~~ hearing on the request or proposal may be held until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or until at least 10 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

Subject to par. (b) if

Notwithstanding par. (b), no

if the identity of location of the Indian child's parent, Indian custodian, or tribe cannot be determined

SECTION 89. 48.357 (2m) (c) of the statutes, ~~as affected by 2007 Wisconsin Act~~ *cannot be determined*, is renumbered 48.357 (2m) (c) 1. and amended to read:

48.357 (2m) (c) 1. If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings specified in under sub. (2v) (a) 1., the applicable order specified in under sub. (2v) (a) 1m., the applicable statement specified in under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in under sub. (2v) (a) 3. If the court changes the placement of an Indian

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~~& the Indian child's~~ parent or Indian custodian
his or her

- (1) child from a placement in the ~~Indian child's~~ home to a placement outside ~~the Indian~~
 (2) ~~child's~~ home, the change in placement order shall, in addition, contain the findings
 3 under sub. (2v) (a) 4. and comply with the order of placement preference under s.
 4 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as
 5 described in s. 48.028 (7) (e), for departing from that order.

- 6 2. If the court changes the child's placement from a placement outside the home
 7 to another placement outside the home, the change in placement order shall contain
 8 the applicable order specified in under sub. (2v) (a) 1m and the applicable statement
 9 specified in under sub. (2v) (a) 2. If the court changes the placement of an Indian
 10 child from a placement outside the ~~Indian child's~~ home to another placement outside
 11 ~~the Indian child's~~ home, the change in placement order shall, in addition, comply
 12 with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s.
 13 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for
 14 departing from that order.

~~& the Indian child's~~ parent or Indian custodian
his or her

15 SECTION 90. 48.357 (2v) (a) 4. of the statutes is created to read:

- 16 48.357 (2v) (a) 4. If the change in placement order changes an Indian child's
 (17) placement from a placement in the ~~Indian child's~~ home to a placement outside ~~the~~
 18 ~~Indian child's~~ home, a finding supported by clear and convincing evidence, including
 19 the testimony of one or more qualified expert witnesses, that continued custody of
 20 the Indian child by the parent or Indian custodian is likely to result in serious
 21 emotional or physical damage to the child under s. 48.028 (4) (d) 1. and a finding
 (22) ~~supported by clear and convincing evidence~~ that the agency primarily responsible for
 23 implementing the dispositional order has made active efforts under s. 48.028 (4) (d)
 24 2. to prevent the breakup of the Indian family and that those efforts have proved
 25 unsuccessful. The findings under this subdivision shall be in addition to the findings

BILL (1) The findings under this subdivision are not required if they were made in a previous order in the proceeding unless a change in circumstances occurs. findings

1 under subd. 1., except that for the sole purpose of determining whether the cost of
2 providing care for an Indian child is eligible for reimbursement under 42 USC 670
3 to 679b, the findings under this subdivision and the findings under subd. 1. shall be
4 considered to be the same findings.

5 **SECTION 91.** 48.357 (2v) (c) 1. of the statutes is renumbered 48.357 (2v) (c) and
6 amended to read:

7 48.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances
8 specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court
9 shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding
10 to determine the permanency plan for the child. ~~If a hearing is held under this~~
11 ~~subdivision, the agency responsible for preparing the permanency plan shall file the~~
12 ~~permanency plan with the court not less than 5 days before the date of the hearing.~~

13 **SECTION 92.** 48.357 (2v) (c) 2. of the statutes is repealed.

14 **SECTION 93.** 48.357 (2v) (c) 3. of the statutes is repealed.

15 **SECTION 94.** 48.363 (1) (a) of the statutes is amended to read:

16 48.363 (1) (a) A child, the child's parent, guardian ~~or~~, legal custodian, or Indian
17 custodian, an expectant mother, an unborn child by the unborn child's guardian ad
18 litem, any person or agency bound by a dispositional order, or the district attorney
19 or corporation counsel in the county in which the dispositional order was entered
20 may request a revision in the order that does not involve a change in placement,
21 including a revision with respect to the amount of child support to be paid by a
22 parent, or the. ~~The court may on its own motion also propose such~~ a revision. The
23 request or court proposal shall set forth in detail the nature of the proposed revision
24 and what new information is available that affects the advisability of the court's
25 disposition. The request or court proposal shall be submitted to the court. The court

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shall hold a hearing on the matter prior to any revision of the dispositional order if the request or court proposal indicates that new information is available which affects the advisability of the court's dispositional order, unless written waivers of objections to the revision are signed by all parties entitled to receive notice and the court approves.

SECTION 95. 48.363 (1) (b) of the statutes is amended to read:

48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the child, the child's parent, guardian, ^{who is placed outside the home of his or her ~~parent or Indian~~ parent or Indian} legal custodian, ^{custodian} all parties ^{and Indian} bound by the dispositional order, the child's foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or corporation counsel in the county in which the dispositional order was entered, and, if the child is an Indian child, ^{the Indian} child's ~~Indian custodian or tribe~~ ^{tribe}. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem; ~~or. If the proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child through the unborn child's guardian ad litem, all parties bound by the dispositional order, and the district attorney or corporation counsel in the county in which the dispositional order was entered, at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing. No revision may extend the effective period of the original order.~~

SECTION 96. 48.365 (1m) of the statutes is amended to read:

48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian, expectant mother, unborn child by the unborn child's guardian ad litem, any person

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1 or agency bound by the dispositional order, the district attorney or corporation
 2 counsel in the county in which the dispositional order was entered, or the court on
 3 its own motion, may request an extension of an order under s. 48.355 including an
 4 order under s. 48.355 that was entered before the child was born. The request shall
 5 be submitted to the court ~~which~~ that entered the order. ~~No~~ An order under s. 48.355
 6 may be extended ~~except~~ only as provided in this section. *who is placed outside the home*

7 **SECTION 97.** 48.365 (2) of the statutes is amended to read: *& ~~the child's~~ parent*

8 48.365 (2) No order may be extended without a hearing. The court shall notify
 9 provide notice of the time and place of the hearing to the child, the child's parent,
 10 guardian, ^{and Indian custodian} and legal custodian, ~~all the~~ parties present at the original hearing, the
 11 child's foster parent, treatment foster parent or other physical custodian described
 12 in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or
 13 corporation counsel in the county in which the dispositional order was entered and,
 14 if the child is an Indian child, the Indian child's ~~Indian custodian and~~ tribe. *or Indian custodian*
 15 child is an expectant mother of an unborn child under s. 48.133, the court shall also
 16 notify the unborn child by the unborn child's guardian ad litem, or. If the extension
 17 hearing involves an adult expectant mother of an unborn child under s. 48.133, the
 18 court shall notify the adult expectant mother, the unborn child through the unborn
 19 child's guardian ad litem, all the parties present at the original hearing, and the
 20 district attorney or corporation counsel in the county in which the dispositional order
 21 was entered, of the time and place of the hearing. *of his or her parent or Indian custodian*

22 **SECTION 98.** 48.365 (2g) (b) 4. of the statutes is created to read:

23 48.365 (2g) (b) 4. If the child is an Indian child who is placed outside the home,
 24 specific information showing that active efforts under s. 48.028 (4) (d) 2. have been

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made to prevent the breakup of the Indian family and that those efforts have proved
unsuccessful. ~~§ 48.365 (2m) (a) 1.~~ parent or Indian custodian

SECTION 99. 48.365 (2m) (a) 1. of the statutes is amended to read:

48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of extension. If the child is placed outside of his or her home, the person or agency primarily responsible for providing services to the child shall present as evidence specific information showing that the person or agency has made reasonable efforts to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies. If an Indian child is placed outside the home, the person or agency primarily responsible for providing services to the Indian child shall also present as evidence specific information showing that the person or agency has made active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful.

1m. The judge shall make findings of fact and conclusions of law based on the evidence. The findings of fact shall include a finding as to whether reasonable efforts were made by the agency primarily responsible for providing services to the child to achieve the goal of the child's permanency plan, unless return of the child to the home is the goal of the permanency plan and the judge finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies. If the child is an Indian child who is placed outside the home, the findings of fact shall also include a finding as to whether active efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup of the Indian family and as to whether those efforts have proved unsuccessful. An order shall be issued under s. 48.355.

SECTION 100. 48.365 (2m) (a) 3. of the statutes is amended to read:

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1 48.365 (2m) (a) 3. The judge shall make the findings ~~specified in~~ under subd.
2 ~~1. 1m.~~ relating to reasonable efforts to achieve the goal of the child's permanency plan
3 and the findings ~~specified in~~ under subd. 2. on a case-by-case basis based on
4 circumstances specific to the child and shall document or reference the specific
5 information on which those findings are based in the order issued under s. 48.355.
6 An order that merely references subd. ~~1. 1m.~~ or 2. without documenting or
7 referencing that specific information in the order or an amended order that
8 retroactively corrects an earlier order that does not comply with this subdivision is
9 not sufficient to comply with this subdivision.

10 **SECTION 101.** 48.365 (2m) (ad) 1. of the statutes is renumbered 48.365 (2m) (ad)
11 and amended to read:

12 48.365 (2m) (ad) If the judge finds that any of the circumstances ~~specified in~~
13 under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold
14 a hearing under s. 48.38 (4m) within 30 days after the date of that finding to
15 determine the permanency plan for the child. ~~If a hearing is held under this~~
16 ~~subdivision, the agency responsible for preparing the permanency plan shall file the~~
17 ~~permanency plan with the court not less than 5 days before the date of the hearing.~~

18 **SECTION 102.** 48.365 (2m) (ad) 2. of the statutes is repealed.

19 **SECTION 103.** 48.365 (2m) (ag) of the statutes is amended to read:

20 48.365 (2m) (ag) The court shall give a foster parent, treatment foster parent,
21 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
22 ~~par. (ad) 2. or~~ sub. (2) an opportunity to be heard at the hearing by permitting the
23 foster parent, treatment foster parent, or other physical custodian to make a written
24 or oral statement during the hearing, or to submit a written statement prior to the
25 hearing, relevant to the issue of extension. A foster parent, treatment foster parent,

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who is placed outside the home of ~~the~~
~~parent or~~ Indian custodian

or other physical custodian described in s. 48.62 (2) who receives notice of a hearing under ~~par. (a) 2. or~~ sub. (2) and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and having the opportunity to be heard.

SECTION 104. 48.38 (4) (i) of the statutes is created to read:

48.38 (4) (i) If the child is an Indian child, all of the following:

1. The name, address, and telephone number of the Indian child's Indian custodian and tribe.
2. A description of the remedial services and rehabilitation programs offered under s. 48.028 (4) (d) 2. in an effort to prevent the breakup of the Indian family.
3. A statement as to whether the Indian child's placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the placement is not in compliance with that order, a statement as to whether there is good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 105. 48.38 (4m) of the statutes is created to read:

48.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding under s. 48.21, 48.32, 48.355, 48.357, or 48.365 the court finds that any of the circumstances under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing within 30 days after the date of that finding to determine the permanency plan for the child. If a hearing is held under this paragraph, the agency responsible for preparing the permanency plan shall file the permanency plan with the court not less than 5 days before the hearing.

(b) At least 10 days before the hearing the court shall notify the child, any parent, guardian, and legal custodian of the child, any foster parent, treatment foster

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parent, or other physical custodian described in s. 48.62 (2) of the child and, if the child is an Indian child, the Indian child's Indian custodian and tribe of the time, place, and purpose of the hearing.

If the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined,
(e) If the court knows or has reason to know that the child is an Indian child, notice under par. (b) to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing may be held under par. (a) until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or until at least 20 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

(c) The court shall give a foster parent, treatment foster parent, or other physical custodian described in s. 48.62 (2) who is notified of a hearing under par. (b) *a right* to be heard at the hearing by permitting the foster parent, treatment foster parent, or other physical custodian to make a written or oral statement during the hearing, or to submit a written statement prior to the hearing, relevant to the issues to be determined at the hearing. The foster parent, treatment foster parent, or other physical custodian does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and *right* to be heard.

SECTION 106. 48.38 (5) (b) of the statutes is amended to read:

48.38 (5) (b) The court or the agency shall notify ~~the parents of the child, the child, if he or she is 12 years of age or older, and; the child's parent, guardian, and legal custodian;~~ the child's foster parent, the child's treatment foster parent, the operator of the facility in which the child is living, or the relative with whom the child

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who is placed outside the home of his or her
parent or Indian custodian

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who is placed outside the
home of his or parent or
Indian custodian

(1) is living; and, if the child is an Indian child, the Indian child's Indian custodian and tribe of the date, time, and place of the review, of the issues to be determined as part of the review, and of the fact that they may have an opportunity to be heard at the review by submitting written comments not less than 10 working days before the review or by participating at the review. The court or agency shall notify the person representing the interests of the public, the child's counsel, the child's guardian ad litem, and the child's court-appointed special advocate of the date of the review, of the issues to be determined as part of the review, and of the fact that they may submit written comments not less than 10 working days before the review. The notices under this paragraph shall be provided in writing not less than 30 days before the review and copies of the notices shall be filed in the child's case record.

SECTION 107. 48.38 (5) (bm) of the statutes is created to read:

48.38 (5) (bm) If the child is an Indian child, notice under par. (b) to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No review may be held until at least 10 days after receipt of the notice by the Indian child's parent, Indian custodian, and tribe or until at least 25 days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the review.

SECTION 108. 48.38 (5) (c) 8. of the statutes is created to read:

48.38 (5) (c) 8. If the child is an Indian child, whether active efforts under s. 48.028 (4) (d) 2. were made by the agency to prevent the breakup of the Indian family, whether those efforts have proved unsuccessful, whether the Indian child's placement is in compliance with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), and, if the placement is not in compliance with

if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined,

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1 that order, whether there is good cause, as described in s. 48.028 (7) (e), for departing
2 from that order. who is placed outside the home of his or her
parent or Indian custodian (ver tua)

3 **SECTION 109.** 48.38 (5) (d) of the statutes is amended to read:

4 48.38 (5) (d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the
5 permanency plan shall, at least 5 days before a review by a review panel, provide to
6 each person appointed to the review panel, the child's parent, guardian, and legal
7 custodian, the person representing the interests of the public, the child's counsel, the
8 child's guardian ad litem and, the child's court-appointed special advocate, and, if
9 the child is an Indian child, the Indian child's Indian custodian and tribe a copy of
10 the permanency plan and any written comments submitted under par. (b).
11 Notwithstanding s. 48.78 (2) (a), a person appointed to a review panel, the person
12 representing the interests of the public, the child's counsel, the child's guardian ad
13 litem and, the child's court-appointed special advocate, and, if the child is an Indian
14 child, the Indian child's Indian custodian and tribe may have access to any other
15 records concerning the child for the purpose of participating in the review. A person
16 permitted access to a child's records under this paragraph may not disclose any
17 information from the records to any other person.

18 **SECTION 110.** 48.38 (5) (e) of the statutes is amended to read:

19 48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
20 the determinations under par. (c) and shall provide a copy to the court that entered
21 the order; the child or the child's counsel or guardian ad litem; the person
22 representing the interests of the public; the child's parent ~~or~~, guardian, or legal
23 custodian; the child's court-appointed special advocate and; the child's foster parent,
24 the child's treatment foster parent, or the operator of the facility where the child is

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who is placed outside the home of his or her
parent or Indian custodian (the tribe)

SECTION 110

① living; and, if the child is an Indian child, the Indian child's Indian custodian and
2 tribe.

3 **SECTION 111.** 48.38 (5m) (b) of the statutes is amended to read:

4 48.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
5 shall notify the child; the child's parent, guardian, and legal custodian; the child's
6 foster parent or treatment foster parent, the operator of the facility in which the child
7 is living, or the relative with whom the child is living; the child's counsel, the child's
8 guardian ad litem, and the child's court-appointed special advocate; the agency that
9 prepared the permanency plan; and the person representing the interests of the
10 public; and, if the child is an Indian child, the Indian child's Indian custodian and
11 tribe of the date, time, and place of the hearing.

12 **SECTION 112.** 48.38 (5m) (bm) of the statutes is created to read:

13 48.38 (5m) (bm) If the child is an Indian child, notice under par. (b) to the Indian
14 child's parent, Indian custodian, and tribe shall be provided in the manner specified
15 in s. 48.028 (4) (a). No hearing under par. (a) may be held until at least 10 days after
16 receipt of the notice by the Indian child's parent, Indian custodian, and tribe or until
17 at least 10 days after receipt of the notice by the U.S. secretary of the interior. On
18 request of the Indian child's parent, Indian custodian, or tribe, the court shall grant
19 a continuance of up to 20 additional days to enable the requester to prepare for the
20 hearing.

21 **SECTION 113.** 48.38 (5m) (d) of the statutes is amended to read:

22 48.38 (5m) (d) At least 5 days before the date of the hearing the agency that
23 prepared the permanency plan shall provide a copy of the permanency plan and any
24 written comments submitted under par. (c) to the court, to the child's parent,
25 guardian, and legal custodian, to the person representing the interests of the public,

, if the identity or location of the Indian child's parent,
Indian custodian, or tribe cannot be determined,

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(Use 3 times)
who is placed outside the home of his or
her parent or Indian custodian

(11/1/07)

1 to the child's counsel or guardian ad litem, and to the child's court-appointed special
2 advocate, and, if the child is an Indian child, to the Indian child's Indian custodian
3 and tribe. Notwithstanding s. 48.78 (2) (a), the person representing the interests of
4 the public, the child's counsel or guardian ad litem, and the child's court-appointed
5 special advocate, and, if the child is an Indian child, the Indian child's Indian
6 custodian and tribe may have access to any other records concerning the child for the
7 purpose of participating in the review. A person permitted access to a child's records
8 under this paragraph may not disclose any information from the records to any other
9 person.

10 **SECTION 114.** 48.38 (5m) (e) of the statutes is amended to read:

11 48.38 **(5m)** (e) After the hearing, the court shall make written findings of fact
12 and conclusions of law relating to the determinations under sub. (5) (c) and shall
13 provide a copy of those findings of fact and conclusions of law to the child; the child's
14 parent, guardian, and legal custodian; the child's foster parent or treatment foster
15 parent, the operator of the facility in which the child is living, or the relative with
16 whom the child is living; the child's court-appointed special advocate; the agency
17 that prepared the permanency plan; and the person representing the interests of the
18 public; and, if the child is an Indian child, the Indian child's Indian custodian and
19 tribe. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case
20 basis based on circumstances specific to the child and shall document or reference
21 the specific information on which those findings are based in the findings of fact and
22 conclusions of law prepared under this paragraph. Findings of fact and conclusions
23 of law that merely reference sub. (5) (c) 7. without documenting or referencing that
24 specific information in the findings of fact and conclusions of law or amended
25 findings of fact and conclusions of law that retroactively correct earlier findings of

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fact and conclusions of law that do not comply with this paragraph are not sufficient to comply with this paragraph.

SECTION 115. 48.41 (2) (e) of the statutes is created to read:

48.41 (2) (e) In the case of an Indian child, the consent is given as provided in s. 48.028 (5) (b).

SECTION 116. 48.415 (intro.) of the statutes is amended to read:

48.415 Grounds for involuntary termination of parental rights. (intro.)

At the fact-finding hearing the court or jury ~~may make a finding that shall determine whether grounds exist for the termination of parental rights. If services for the child and family or for the unborn child and expectant mother have been ordered by the court, the court or jury shall also determine whether the agency responsible for the care of the child and family or of the unborn child and expectant mother has made an earnest and conscientious effort to take good faith steps to provide those services that takes into consideration the characteristics of the parent or child or of the expectant mother or child, the level of cooperation of the parent or expectant mother, and other relevant circumstances of the case.~~ If the child is an Indian child, the court

or jury shall also determine whether continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (e) 1. and whether the agency has made active efforts under s. 48.028 (4) (e) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful. Grounds for termination of parental rights shall be one of the following:

~~**SECTION 117.** 48.415 (2) (a) 2. of the statutes is repealed.~~

SECTION 118. 48.417 (2) (cm) of the statutes is created to read:

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SECTION 118

petition seeking the involuntary termination of parental rights to

48.417 (2) (cm) In the case of an Indian child, the agency primarily responsible for providing services to the Indian child and the family under a court order, if required under s. 48.355 (2) (b) 6v. to make active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family, has not provided to the Indian child's family, consistent with ~~the time period in~~ the child's permanency plan, the services necessary to prevent the breakup of the Indian family.

SECTION 119. 48.42 (1) (d) of the statutes is amended to read:

48.42 (1) (d) A statement of whether the child may be subject to the federal Indian child welfare act Child Welfare Act, 25 USC 1911 to 1963, and, if the child may be subject to that act, the names of the child's Indian custodian, if any, and tribe, if known.

SECTION 120. 48.42 (1) (e) of the statutes is created to read:

48.42 (1) (e) If services for the child and family or for the unborn child and expectant mother have been ordered by the court, reliable and credible evidence showing that the agency responsible for the care of the child and family or of the unborn child and expectant mother has made an earnest and conscientious effort to take good faith steps to provide those services that takes into consideration the characteristics of the parent or child or of the expectant mother or child, the level of cooperation of the parent or expectant mother, and other relevant circumstances of the case.

SECTION 121. 48.42 (1) ~~10~~ of the statutes is created to read:

48.42 (1) ~~10~~ If the ~~Indian~~ Indian child, reliable and credible information showing that continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child under s. 48.028 (4) (e) 1. and reliable and credible information showing

(e) (1) (c) petition is seeking the involuntary termination of parental rights to

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In the case of an involuntary termination of
parental rights to a child whom

that the agency has made active efforts under s. 48.028 (4) (e) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful.

SECTION 122. 48.42 (2) (c) of the statutes is amended to read:

48.42 (2) (c) The guardian, guardian ad litem and, legal custodian, and Indian custodian of the child.

↑ if the identity or location of the Indian child's parent, Indian custodian, or tribe cannot be determined, Δ =

SECTION 123. 48.42 (2g) (ag) of the statutes is created to read:

48.42 (2g) (ag) ~~if~~ the petitioner knows or has reason to know that the child is an Indian child, the petitioner shall cause the summons and petition to be served on the Indian child's parent and Indian custodian in the manner specified in s. 48.028 (4) (a). In like manner, the petitioner shall also notify the Indian child's tribe of all hearings on the petition. The first notice to an Indian child's tribe shall be written, shall have a copy of the petition attached to it, and shall state the nature, location, date, and time of the initial hearing. No hearing may be held on the petition until at least 10 days after receipt of notice of the hearing by the Indian child's parent, Indian custodian, and tribe or until at least ~~20~~ days after receipt of the notice by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 124. 48.42 (4) (a) of the statutes is amended to read:

48.42 (4) (a) *Personal service.* Except as provided in this paragraph and, par. (b), and sub. (2g) (ag), a copy of the summons and petition shall be served personally upon the parties specified in sub. (2), if known, at least 7 days before the date of the hearing. Service of summons is not required if the party submits to the jurisdiction of the court. Service upon parties who are not natural persons and upon persons under a disability shall be as prescribed in s. 801.11.

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1 **SECTION 125.** 48.422 (1) of the statutes is amended to read:

2 48.422 (1) The Except as provided in s. 48.42 (2g) (ag), the hearing on the
3 petition to terminate parental rights shall be held within 30 days after the petition
4 is filed. At the hearing on the petition to terminate parental rights the court shall
5 determine whether any party wishes to contest the petition and inform the parties
6 of their rights under sub. (4) and s. 48.423.

7 **SECTION 126.** 48.422 (2) of the statutes is amended to read:

8 48.422 (2) If Except as provided in s. 48.42 (2g) (ag), if the petition is contested
9 the court shall set a date for a fact-finding hearing to be held within 45 days of after
10 the hearing on the petition, unless all of the necessary parties agree to commence
11 with the hearing on the merits immediately.

12 **SECTION 127.** 48.422 (6) (a) of the statutes is amended to read:

13 48.422 (6) (a) In the case of a nonmarital child who is not adopted or whose
14 parents do not subsequently intermarry under s. 767.803 and for whom paternity
15 has not been established, or for whom a declaration of paternal interest has not been
16 filed under s. 48.025 within 14 days after the date of birth of the child or, if s. 48.42
17 (1g) (b) applies, within 21 days after the date on which the notice under s. 48.42 (1g)
18 (b) is mailed, the court shall hear testimony concerning the paternity of the child.
19 Based on the testimony, the court shall determine whether all interested parties who
20 are known have been notified under s. 48.42 (2) and (2g) (ag). If not, the court shall
21 adjourn the hearing and order appropriate notice to be given.

22 **SECTION 128.** 48.422 (8) of the statutes is amended to read:

23 48.422 (8) If the petition for termination of parental rights is filed by an agency
24 enumerated in s. 48.069 (1) or (2), the court shall order the agency to submit file a
25 report ~~to~~ with the court as provided in s. 48.425 (1), except that, if the child is an

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1 Indian child, the court may order the agency or request the tribal child welfare
2 department of the Indian child's tribe to file that report.

3 ~~SECTION 129. 48.423 (1) of the statutes is amended to read:~~

4 ~~48.423 (1) RIGHTS TO PATERNITY DETERMINATION. If a person appears at the~~
5 ~~hearing and claims that he is the father of the child, the court shall set a date for a~~
6 ~~hearing on the issue of paternity or, if. If the child is an Indian child or if it appears~~
7 ~~to the court that the determination of paternity may result in a finding that the child~~
8 ~~is an Indian child, the court shall cause notice of the hearing on the issue of paternity~~
9 ~~to be provided to the Indian child's parent, Indian custodian, and tribe under s. 48.42~~
10 ~~(2g) (ag), and the hearing may not be held until at least 10 days after receipt of notice~~
11 ~~under s. 48.42 (2g) (ag) by the Indian child's parent, Indian custodian, and tribe or~~
12 ~~until at least 25 days after receipt of the notice by the U.S. secretary of the interior.~~
13 ~~On request of the Indian child's parent, Indian custodian, or tribe, the court shall~~
14 ~~grant a continuance of up to 20 additional days to enable the requester to prepare~~
15 ~~for the hearing. If all parties agree, the court may immediately commence hearing~~
16 ~~testimony concerning the issue of paternity. The court shall inform the person~~
17 ~~claiming to be the father of the child of any right to counsel under s. 48.23. The person~~
18 ~~claiming to be the father of the child must prove paternity by clear and convincing~~
19 ~~evidence. A person who establishes his paternity of the child under this section may~~
20 ~~further participate in the termination of parental rights proceeding only if the person~~
21 ~~meets the conditions specified in sub. (2) or meets a condition specified in s. 48.42 (2)~~
22 ~~or (b) or (bm).~~

23 **SECTION 130.** 48.424 (1) of the statutes is renumbered 48.424 (1) (intro.) and
24 amended to read:

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(intro.)

1 48.424 (1) ~~The purpose of the fact-finding hearing is to determine whether~~
2 ~~grounds exist for the termination of parental rights in those cases where the~~
3 ~~termination in cases in which the petition was contested at the hearing on the~~
4 ~~petition under s. 48.422 all of the following:~~

5 (a) Whether grounds exist for the termination of parental rights.

6 ~~SECTION 131. 48.424 (1) (b) of the statutes is created to read:~~

7 48.424 (1) (b) ~~Whether the allegations specified in s. 48.42 (1) (e) have been~~
8 ~~proved in cases in which services have been ordered by the court.~~

9 ~~SECTION 132. 48.424 (1) (b) of the statutes is created to read:~~

10 48.424 (1) ~~Whether the allegations specified in s. 48.42 (1) (e) have been~~
11 ~~proved in cases in which the child is an Indian child.~~ (e) *Involving the involuntary termination of parental rights to*

12 SECTION 133. 48.424 (2) (intro.) of the statutes is amended to read:

13 48.424 (2) (intro.) The fact-finding hearing shall be conducted according to the
14 procedure specified in s. 48.31 except ~~that~~ as follows:

15 SECTION 134. 48.424 (2) (a) of the statutes is amended to read:

16 48.424 (2) (a) The court may exclude the child from the hearing; ~~and.~~

17 SECTION 135. 48.424 (3) of the statutes is amended to read:

18 48.424 (3) If the facts are determined by a jury, the jury may only decide
19 whether any grounds for the termination of parental rights have been ~~proven~~ proved

20 ~~whether the allegations specified in s. 48.42 (1) (e) have been proved in cases in which~~
21 ~~services have been ordered by the court, and whether the allegations specified in s.~~

22 48.42 (1) ~~have been proved in cases in which the child is an Indian child.~~ The court
23 shall decide what disposition is in the best interest of the child.

24 SECTION 136. 48.424 (4) (intro.) of the statutes is amended to read:

Involving the involuntary termination of parental rights to

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1 48.424 (4) (intro.) If grounds for the termination of parental rights are found
2 by the court or jury, the court shall find the parent unfit. A finding of unfitness shall
3 not preclude a dismissal of a petition under s. 48.427 (2). The court shall then proceed
4 immediately to hear evidence and motions related to the dispositions enumerated in
5 s. 48.427. The Except as provided in s. 48.42 (2g) (ag), the court may delay making
6 the disposition and set a date for a dispositional hearing no later than 45 days after
7 the fact-finding hearing if any of the following apply:

8 **SECTION 137.** 48.424 (4) (a) of the statutes is amended to read:

9 48.424 (4) (a) All parties to the proceeding agree; ~~or,~~

10 **SECTION 138.** 48.424 (4) (b) of the statutes is amended to read:

11 48.424 (4) (b) The court has not yet received a report to the court on the history
12 of the child as provided in s. 48.425 ~~from an agency enumerated in s. 48.069 (1) or~~
13 ~~(2) and the court now directs the agency to prepare this report to be considered orders~~
14 an agency enumerated in s. 48.069 (1) or (2) to file that report with the court, or, in
15 the case of an Indian child, now orders that agency or requests the tribal child welfare
16 department of the Indian child's tribe to file such a report, before the court makes the
17 disposition on the petition.

18 **SECTION 139.** 48.424 (5) of the statutes is amended to read:

19 48.424 (5) If the court delays making a permanent disposition under sub. (4),
20 it may transfer temporary custody of the child to an agency for placement of the child
21 until the dispositional hearing. Placement of an Indian child under this subsection
22 shall comply with the order of placement preference under s. 48.028 (7) (b) or, if
23 applicable, s. 48.028 (7) (c), unless the agency finds good cause, as described in s.
24 48.028 (7) (e), for departing from that order.

25 **SECTION 140.** 48.425 (1) (intro.) of the statutes is amended to read:

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SECTION 140

1 48.425 (1) (intro.) If ~~the petition for the termination of parental rights is filed~~
2 ~~by an agency, or if the court orders an agency enumerated under s. 48.069 (1) or (2)~~
3 ~~to file a report under s. 48.422 (8) or 48.424 (4) (b) or requests the tribal child welfare~~
4 ~~department of an Indian child's tribe to file such a report, the agency or tribal child~~
5 ~~welfare department, if that department consents, shall file a report with the court~~
6 which shall include: *petition is seeking the involuntary termination of*
parental rights to

7 **SECTION 141.** 48.425 (1) (cm) of the statutes is created to read:

8 48.425 (1) (cm) If the ~~child is~~ an Indian child, specific information showing that
9 continued custody of the child by the parent or Indian custodian is likely to result in
10 serious emotional or physical damage to the child under s. 48.028 (4) (e) 1. and, if the
11 Indian child has previously been adjudged to be in need of protection or services,
12 specific information showing that the agency or person responsible for providing
13 services to the Indian child and his or her family has made active efforts under s.
14 48.028 (4) (e) 2. to prevent the breakup of the Indian family and that those efforts
15 have proved unsuccessful.

16 **SECTION 142.** 48.427 (5) of the statutes is created to read:

17 48.427 (5) (cm) In placing an Indian child in a preadoptive placement following
18 a transfer of guardianship and custody under sub. (3m) or (3p) or in placing an Indian
19 child in sustaining care under sub. (4), the court or an agency specified in sub. (3m)
20 (a) 1. to 4. or (am) shall comply with the order of placement preference under s. 48.028
21 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court or agency finds good cause,
22 as described in s. 48.028 (7) (e), for departing from that order.

23 **SECTION 143.** 48.427 (6) (b) 4. of the statutes is created to read:

24 48.427 (6) (b) 4. If the child is ~~known to be~~ an Indian child, information relating
25 to the child's membership or eligibility for membership in an Indian tribe.

the court knows or has reason to
know that

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1 **SECTION 144.** 48.428 (2) (a) of the statutes is amended to read:

2 48.428 (2) (a) Except as provided in par. (b), when a court places a child in
3 sustaining care after an order under s. 48.427 (4), the court shall transfer legal
4 custody of the child to the county department, the department, in a county having
5 a population of 500,000 or more, or a licensed child welfare agency, transfer
6 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), and
7 place the child in the home of a licensed foster parent, licensed treatment foster
8 parent, or kinship care relative with whom the child has resided for 6 months or
9 longer. In placing an Indian child in sustaining care, the court shall comply with the
10 order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c),
11 unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from
12 that order. Pursuant to such a placement, ~~this~~ that licensed foster parent, licensed
13 treatment foster parent, or kinship care relative shall be a sustaining parent with
14 the powers and duties specified in sub. (3).

15 **SECTION 145.** 48.428 (2) (b) of the statutes is amended to read:

16 48.428 (2) (b) When a court places a child in sustaining care after an order
17 under s. 48.427 (4) with a person who has been appointed as the guardian of the child
18 under s. 48.977 (2), the court may transfer legal custody of the child to the county
19 department, the department, in a county having a population of 500,000 or more, or
20 a licensed child welfare agency, transfer guardianship of the child to an agency listed
21 in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster
22 parent, licensed treatment foster parent, or kinship care relative with whom the
23 child has resided for 6 months or longer. In placing an Indian child in sustaining
24 care, the court shall comply with the order of placement preference under s. 48.028
25 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described

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(under sub. (1))
order involuntarily terminated parental rights to

1 in s. 48.028 (7) (e), for departing from that order. Pursuant to such a placement, that
2 licensed foster parent, licensed treatment foster parent, or kinship care relative shall
3 be a sustaining parent with the powers and duties specified in sub. (3). If the court
4 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.
5 or (am), the court shall terminate the guardianship under s. 48.977.

if the identity or location
of the Indian child's
tribe cannot be
determined,

6 **SECTION 146.** 48.43 (5) (bm) of the statutes is created to read:

7 48.43 (5) (bm) If the ~~child~~ is an Indian child, the court shall also provide notice
8 of the hearing under par. (b) to the Indian child's tribe in the manner specified in s.
9 48.028 (4) (a). No hearing may be held under par. (b) until at least 10 days after
10 receipt of notice of the hearing by the Indian child's tribe or until at least ~~10~~ days after
11 receipt of notice of the hearing by the U.S. secretary of the interior. On request of the
12 Indian child's tribe, the court shall grant a continuance of up to 20 additional days
13 to enable the tribe to prepare for the hearing.

14 **SECTION 147.** 48.43 (5) (c) of the statutes is amended to read:

15 48.43 (5) (c) Following the hearing, the court shall make all of the
16 determinations specified under s. 48.38 (5) (c), except the determinations relating to
17 the child's parents. The court may amend the order under sub. (1) to transfer the
18 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.
19 to 4. or (am) that consents to the transfer, if the court determines that the transfer
20 is in the child's best interest. If an Indian child's guardianship and custody are
21 transferred under this paragraph, the agency consenting to the transfer shall comply
22 with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s.
23 48.028 (7) (c) in placing the child, unless the agency finds good cause, as described
24 in s. 48.028 (7) (e), for departing from that order. If an order is amended, the agency
25 that prepared the permanency plan shall revise the plan to conform to the order and

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order under subchapter (1) involuntarily terminated
parental rights to

shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

SECTION 148. 48.43 (5m) of the statutes is amended to read:

48.43 (5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, and to the child's foster parent, the child's treatment foster parent, or the operator of the facility in which the child is living, and, if the ~~child is~~ an Indian child, to the Indian child's tribe.

SECTION 149. 48.43 (6) (a) of the statutes is amended to read:

48.43 (6) (a) Judgments under this subchapter terminating parental rights are final and are appealable under s. 808.03 (1) according to the procedure specified in s. 809.107 and are subject to a petition for rehearing or a motion for relief only as provided in s. 48.46 (1m) and (2) and, in the case of an Indian child, s. 48.028 (5) (c) and (6). The attorney representing a person during a proceeding under this subchapter shall continue representation of that person by filing a notice of intent to appeal under s. 809.107 (2), unless the attorney has been previously discharged during the proceeding by the person or by the trial court.

SECTION 150. 48.43 (6) (c) of the statutes is amended to read:

48.43 (6) (c) In Except as provided in s. 48.028 (5) (c) and (6), in no event may any person, for any reason, collaterally attack a judgment terminating parental rights more than one year after the date on which the ~~time limit~~ ^{period} for filing an appeal from the judgment has expired, or more than one year after the date on which all appeals from the judgment, if any were filed, have been decided, whichever is later.

SECTION 151. 48.46 (2) of the statutes is amended to read:

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1 48.46 (2) A parent who has consented to the termination of his or her parental
2 rights under s. 48.41 or who did not contest the petition initiating the proceeding in
3 which his or her parental rights were terminated may move the court for relief from
4 the judgment on any of the grounds specified in s. 806.07 (1) (a), (b), (c), (d) or (f). Any
5 such motion shall be filed within 30 days after the entry of the judgment or order
6 terminating parental rights, unless the parent files a timely notice of intent to
7 pursue relief from the judgment under s. 808.04 (7m), in which case the motion shall
8 be filed within the time permitted by s. 809.107 (5). A motion under this subsection
9 does not affect the finality or suspend the operation of the judgment or order
10 terminating parental rights. Motions under this subsection or s. 48.028 (5) (c) or (6)
11 and appeals to the court of appeals shall be the exclusive remedies for such a parent
12 to obtain a new hearing in a termination of parental rights proceeding.

13 **SECTION 152.** 48.48 (3m) (intro.) of the statutes is amended to read:

14 48.48 (3m) (intro.) To accept appointment by ~~an American Indian~~ a tribal court
15 in this state as guardian of a child for the purpose of making an adoptive placement
16 for the child if all of the following conditions exist:

17 **SECTION 153.** 48.48 (8m) of the statutes is amended to read:

18 48.48 (8m) To enter into agreements with ~~American Indian~~ tribes in this state
19 to implement the ~~Indian child welfare act~~ federal Indian Child Welfare Act, 25 USC
20 1911 to 1963.

21 **SECTION 154.** 48.485 of the statutes is amended to read:

22 **48.485 Transfer of ~~tribal~~ Indian children to department for adoption.**

23 If the department accepts guardianship or legal custody or both from ~~an American~~
24 ~~Indian~~ a tribal court under s. 48.48 (3m), the department shall seek a permanent
25 adoptive placement for the child. If a permanent adoptive placement is not in

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1 progress within 2 years after entry of the termination of parental rights order by the
2 tribal court, the department may petition the tribal court to transfer legal custody
3 or guardianship of the Indian child back to the Indian tribe, except that the
4 department may not petition the tribal court to transfer back to ~~a~~ an Indian tribe
5 legal custody or guardianship of ~~a~~ an Indian child who was initially taken into
6 custody under s. 48.195 (1).

7 **SECTION 155.** 48.487 (2) of the statutes, ~~as affected by 2007 Wisconsin Act 20,~~
8 is amended to read:

9 48.487 (2) ADOLESCENT SELF-SUFFICIENCY SERVICES. From the allocation under
10 sub. (1m), the department may provide a grant annually in the amount of \$85,000
11 to the elected governing body of ~~a federally recognized American~~ an Indian tribe ~~or~~
12 ~~band~~ to provide services for adolescent parents which shall emphasize high school
13 graduation and vocational preparation, training, and experience and may be
14 structured so as to strengthen the adolescent parent's capacity to fulfill parental
15 responsibilities by developing social skills and increasing parenting skills. The
16 Indian tribe ~~or band~~ seeking to receive a grant to provide these services shall develop
17 a proposed service plan that is approved by the department.

18 **SECTION 156.** 48.487 (3) (b) of the statutes, ~~as affected by 2007 Wisconsin Act~~
19 ~~20~~ is amended to read:

20 48.487 (3) (b) From the allocation under sub. (1m), the department may provide
21 a grant annually in the amount of \$65,000 to the elected governing body of ~~a federally~~
22 ~~recognized American~~ an Indian tribe ~~or band~~ to provide to high-risk adolescents
23 pregnancy and parenthood prevention services which shall be structured so as to
24 increase development of decision-making and communications skills, promote

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1 graduation from high school, and expand career and other options and which may
2 address needs of adolescents with respect to pregnancy prevention.

3 **SECTION 157.** 48.487 (4m) (b) (intro.) of the statutes, ~~as affected by 2007~~

4 ~~Wisconsin Act 2007~~ is amended to read:

5 48.487 (4m) (b) (intro.) From the allocation under sub. (1m), the department
6 may provide a grant annually in the amount of \$60,000 to the elected governing body
7 of ~~a federally recognized American~~ an Indian tribe ~~or band~~ for the provision of
8 information to members of the Indian tribe ~~or band~~ in order to increase community
9 knowledge about problems of adolescents and information to and activities for
10 adolescents, particularly female adolescents, in order to enable the adolescents to
11 develop skills with respect to all of the following:

12 **SECTION 158.** 48.487 (4m) (c) of the statutes, ~~as affected by 2007 Wisconsin Act~~

13 ~~20~~, is amended to read:

14 48.487 (4m) (c) Each funded tribal project under par. (b) shall provide services
15 in areas of the state as approved by the Indian tribe ~~or band~~ and the department.
16 The department shall determine the boundaries of the regional areas prior to
17 soliciting project grant applications.

18 **SECTION 159.** 48.487 (4m) (d) of the statutes, ~~as affected by 2007 Wisconsin Act~~

19 ~~20~~ is amended to read:

20 48.487 (4m) (d) Prior to making grants to applying Indian tribes ~~or bands~~
21 under par. (b), the department shall consider whether and how the applying Indian
22 tribe ~~or band~~ proposes to coordinate its services with other public or private
23 resources, programs, or activities in the region and the state.

24 **SECTION 160.** 48.563 (3) of the statutes, ~~as affected by 2007 Wisconsin Act 20~~

25 is amended to read:

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1 48.563 (3) TRIBAL CHILD CARE. For child care services under 42 USC 9858, the
2 department shall distribute not more than \$412,800 in each fiscal year from the
3 appropriation account under s. 20.437 (1) (b) to ~~federally recognized American~~
4 Indian tribes ~~or bands. A tribe or band.~~ An Indian tribe that receives funding under
5 this subsection shall use that funding to provide child care for an eligible child, as
6 defined in 42 USC 9858n (4).

7 **SECTION 161.** 48.565 (intro.) of the statutes, ~~as created by 2007 Wisconsin Act~~
8 ~~20~~ is amended to read:

9 **48.565 Carry-over of children and family aids funds.** (intro.) Funds
10 allocated by the department under s. 48.569 (1) (d) but not spent or encumbered by
11 counties, governing bodies of ~~federally recognized American~~ Indian tribes, or private
12 nonprofit organizations by December 31 of each year and funds recovered under s.
13 48.569 (2) (b) and deposited into the appropriation account under s. 20.437 (1) (b)
14 lapse to the general fund on the succeeding January 1 unless carried forward to the
15 next calendar year under s. 20.437 (1) (b) or as follows:

16 **SECTION 162.** 48.57 (3p) (h) 2. of the statutes, ~~as affected by 2007 Wisconsin Act~~
17 ~~20~~ is amended to read:

18 48.57 (3p) (h) 2. The request for review shall be filed with the director of the
19 county department or, in a county having a population of 500,000 or more, with the
20 person designated by the secretary to receive requests for review filed under this
21 subdivision. If the governing body of ~~a federally recognized American~~ an Indian
22 tribe ~~or band~~ has entered into an agreement under sub. (3t) to administer the
23 program under this subsection and sub. (3m), the request for review shall be filed
24 with the person designated by that governing body to receive requests for review filed
25 under this subdivision.

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1 **SECTION 163.** 48.57 (3p) (h) 3. (intro.) of the statutes, ~~as affected by 2007~~

2 ~~Wisconsin Act 20~~ is amended to read:

3 48.57 (3p) (h) 3. (intro.) The director of the county department, the person
4 designated by the governing body of ~~a federally recognized American~~ an Indian tribe
5 ~~or band~~ or, in a county having a population of 500,000 or more, the person designated
6 by the secretary shall review the denial of payments or the prohibition on
7 employment or being an adult resident to determine if the conviction record on which
8 the denial or prohibition is based includes any arrests, convictions, or penalties that
9 are likely to adversely affect the child or the ability of the kinship care relative to care
10 for the child. In reviewing the denial or prohibition, the director of the county
11 department, the person designated by the governing body of the ~~federally recognized~~
12 ~~American~~ Indian tribe ~~or band~~ or the person designated by the secretary shall
13 consider all of the following factors:

14 **SECTION 164.** 48.57 (3p) (h) 4. of the statutes, ~~as affected by 2007 Wisconsin Act~~

15 ~~20~~, is amended to read:

16 48.57 (3p) (h) 4. If the director of the county department, the person designated
17 by the governing body of the ~~federally recognized American~~ Indian tribe ~~or band~~ or,
18 in a county having a population of 500,000 or more, the person designated by the
19 secretary determines that the conviction record on which the denial of payments or
20 the prohibition on employment or being an adult resident is based does not include
21 any arrests, convictions, or penalties that are likely to adversely affect the child or
22 the ability of the kinship care relative to care for the child, the director of the county
23 department, the person designated by the governing body of the ~~federally recognized~~
24 ~~American~~ Indian tribe ~~or band~~, or the person designated by the secretary may
25 approve the making of payments under sub. (3m) or may permit a person receiving

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1 payments under sub. (3m) to employ a person in a position in which that person
2 would have regular contact with the child for whom payments are being made or
3 permit a person to be an adult resident.

4 **SECTION 165.** 48.57 (3t) of the statutes is amended to read:

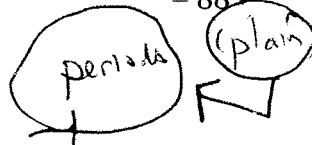
5 48.57 (3t) Notwithstanding subs. (3m), (3n), and (3p), the department may
6 enter into an agreement with the governing body of ~~a federally recognized American~~
7 an Indian tribe or band to allow that governing body to administer the program
8 under subs. (3m), (3n), and (3p) within the boundaries of ~~that~~ the reservation of the
9 Indian tribe. Any agreement under this subsection relating to the administration
10 of the program under sub. (3m) shall specify the person with whom a request for
11 review under sub. (3p) (h) 2. may be filed and the person who has been designated
12 by the governing body to conduct the review under sub. (3p) (h) 3. and make the
13 determination under sub. (3p) (h) 4. Any agreement under this subsection relating
14 to the administration of the program under sub. (3n) shall specify who is to make any
15 determination as to whether a conviction record is satisfactory.

16 **SECTION 166.** 48.63 (1) of the statutes, ~~as affected by 2007 Wisconsin Act 20,~~
17 is amended to read:

18 48.63 (1) Acting under court order or voluntary agreement, the child's parent
19 ~~or, guardian, or Indian custodian,~~ or the department, the department of corrections,
20 a county department, or a child welfare agency licensed to place children in foster
21 homes, treatment foster homes, or group homes may place a child or negotiate or act
22 as intermediary for the placement of a child in a foster home, treatment foster home,
23 or group home. Voluntary agreements under this subsection may not be used for
24 placements in facilities other than foster, treatment foster, or group homes and may
25 not be extended. A foster home or treatment foster home placement under a

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1 voluntary agreement may not exceed 180 days from the date on which the child was
 2 removed from the home under the voluntary agreement. A group home placement
 3 under a voluntary agreement may not exceed 15 days from the date on which the
 4 child was removed from the home under the voluntary agreement, except as provided
 5 in sub. (5). These ~~time limitations~~ ^{periods} do not apply to placements made under s. 48.345,
 6 938.183, 938.34, or 938.345. Voluntary agreements may be made only under this
 7 subsection and sub. (5) (b) and shall be in writing and shall specifically state that the
 8 agreement may be terminated at any time by the parent ~~or~~, guardian, or Indian
 9 custodian or by the child if the child's consent to the agreement is required. In the
 10 case of an Indian child who is placed under this subsection by the voluntary
 11 agreement of the Indian child's parent or Indian custodian, the voluntary consent of
 12 the parent or Indian custodian to the placement shall be given as provided in s.
 13 48.028 (5) (a). The child's consent to the agreement is required whenever the child
 14 is 12 years of age or older. If a county department, the department, or the department
 15 of corrections places a child or negotiates or acts as intermediary for the placement
 16 of a child under this subsection, the voluntary agreement shall also specifically state
 17 that the county department, department, or department of corrections has
 18 placement and care responsibility for the child as required under 42 USC 672 (a) (2)
 19 and has primary responsibility for providing services to the child.

20 **SECTION 167.** 48.63 (4) of the statutes is amended to read:

21 48.63 (4) A permanency plan under s. 48.38 is required for each child placed
 22 in a foster home or treatment foster home under sub. (1). If the child is living in a
 23 foster home or treatment foster home under a voluntary agreement, the agency that
 24 negotiated or acted as intermediary for the placement shall prepare the permanency
 25 plan within 60 days after the date on which the child was removed from his or her



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^ or Indian custodian
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1 home under the voluntary agreement. A copy of each plan shall be provided to the
2 child if he or she is 12 years of age or over and to the child's parent or guardian ~~and~~
3 ~~if the child is an Indian child, to the Indian child's Indian custodian and tribe.~~ If the
4 agency that arranged the voluntary placement intends to seek a court order to place
5 the child outside of his or her home at the expiration of the voluntary placement, the
6 agency shall prepare a revised permanency plan and file that revised plan with the
7 court prior to the date of the hearing on the proposed placement.

8 **SECTION 168.** 48.63 (5) (b) of the statutes is amended to read:

9 48.63 (5) (b) If a child who is at least 14 years of age, who is a custodial parent,
10 as defined in s. 49.141 (1) (b), or an expectant mother, and who is in need of a safe
11 and structured living arrangement and the parent or, guardian, or Indian custodian
12 of the child consent, a child welfare agency licensed to place children in group homes
13 may place the child or arrange the placement of the child in a group home described
14 in s. 48.625 (1m). Before placing a child or arranging the placement of a child under
15 this paragraph, the child welfare agency shall report any suspected abuse or neglect
16 of the child as required under s. 48.981 (2). A voluntary agreement to place a child
17 in a group home described in s. 48.625 (1m) may be made only under this paragraph,
18 shall be in writing, and shall specifically state that the agreement may be terminated
19 at any time by the parent, guardian, Indian custodian, or child. In the case of an
20 Indian child who is placed in a group home under this paragraph by the voluntary
21 agreement of the Indian child's parent or Indian custodian, the voluntary consent of
22 the parent or Indian custodian to the placement shall be given as provided in s.
23 48.028 (5) (a). An initial placement under this paragraph may not exceed 180 days
24 from the date on which the child was removed from the home under the voluntary
25 agreement, but may be extended as provided in par. (d) 3. to 6. An initial placement

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or Indian custodian

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1 under this paragraph of a child who is under 16 years of age on the date of the initial
2 placement may be extended as provided in par. (d) 3. to 6. no more than once.

3 **SECTION 169.** 48.63 (5) (c) of the statutes is amended to read:

4 48.63 (5) (c) A permanency plan under s. 48.38 is required for each child placed
5 in a group home under par. (b) and for any child of that child who is residing with that
6 child. The agency that placed the child or that arranged the placement of the child
7 shall prepare the plan within 60 days after the date on which the child was removed
8 from his or her home under the voluntary agreement and shall provide a copy of the
9 plan to the child ^{place} and the child's parent ² or guardian, ~~and if the child is an Indian~~

10 ~~child, the Indian child's Indian custodian and minor.~~

11 **SECTION 170.** 48.63 (5) (d) 3. of the statutes is amended to read:

12 48.63 (5) (d) 3. If the agency that has placed a child under par. (b) or that has
13 arranged the placement of the child wishes to extend the placement of the child, the
14 agency shall prepare a revised permanency plan for that child and for any child of
15 that child who is residing with that child and submit the revised permanency plan
16 or plans, together with a request for a review of the revised permanency plan or plans
17 and the child's placement, to the independent reviewing agency before the expiration
18 of the child's placement. The request shall include a statement that an extension of
19 the child's placement would be in the best interests of the child, together with reliable
20 and credible information in support of that statement, a statement that the child and
21 the parent or, guardian, or Indian custodian of the child consent to the extension of
22 the child's placement, and a request that the independent reviewing agency approve
23 an extension of the child's placement. On receipt of a revised permanency plan or
24 plans and a request for review, the independent reviewing agency shall set a time and

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place for the review and shall advise the agency that placed the child or that arranged the placement of the child of the time and place of the review.

SECTION 171. 48.63 (5) (d) 4. of the statutes is amended to read:

48.63 (5) (d) 4. Not less than 10 days before the review, the agency that placed the child or that arranged the placement of the child shall provide a copy of the revised permanency plan or plans and the request for review submitted under subd. 3. and notice of the time and place of the review to the child, the parent, guardian,

and legal custodian of the child, and the operator of the group home in which the child

is placed, ~~and if the child is an Indian child, the Indian child's Indian custodian and~~

~~together~~ together with notice of the issues to be determined as part of the permanency plan review and notice of the fact that those persons may have the opportunity to be heard at the review by submitting written comments to that agency or the independent reviewing agency before the review or by participating at the review.

SECTION 172. 48.63 (5) (d) 5. of the statutes is amended to read:

48.63 (5) (d) 5. At the review, any person specified in subd. 4. may present information relevant to the issue of extension and information relevant to the determinations specified in s. 48.38 (5) (c). After receiving that information, the independent reviewing agency shall make the determinations specified in s. 48.38 (5) (c) and determine whether an extension of the child's placement is in the best interests of the child and whether the child and the parent or, guardian, or Indian custodian of the child consent to the extension. If the independent reviewing agency determines that the extension is in the best interests of the child and that the child and the parent or, guardian, or Indian custodian of the child consent to the extension, the independent reviewing agency shall approve, in writing, an extension of the placement for a specified period of time not to exceed 6 months, stating the reason

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1 for the approval, and the agency that placed the child or that arranged the placement
2 of the child may extend the child's placement for the period of time approved. If the
3 independent reviewing agency determines that the extension is not in the best
4 interests of the child or that the child and the parent ~~or~~, guardian, or Indian
5 custodian of the child do not consent to the extension, the independent reviewing
6 agency shall, in writing, disapprove an extension of the placement, stating the
7 reason for the disapproval, and the agency that placed the child or that arranged the
8 placement of the child may not extend the placement of the child past the expiration
9 date of the voluntary placement unless the agency obtains a court order placing the
10 child in the group home after the expiration date of the voluntary placement.
11 Notwithstanding the approval of an extension under this subdivision, the child or the
12 parent ~~or~~, guardian, or Indian custodian of the child may terminate the placement
13 at any time during the extension period. Indian custodian

14 **SECTION 173.** 48.63 (5) (d) 6. of the statutes is amended to read:

15 48.63 (5) (d) 6. Within 30 days after the review, the agency that prepared the
16 revised permanency plan or plans shall prepare a written summary of the
17 determinations specified in s. 48.38 (5) (c) that were made under subd. 5. and shall
18 provide a copy of that summary to the independent reviewing agency, the child, the
19 parent, guardian, and legal custodian of the child, ^{plan} and the operator of the group home
20 in which the child was placed, ~~and, if the child is an Indian child, the Indian child's~~

21 ~~Indian custodian and tribe.~~

22 **SECTION 174.** 48.645 (1) (a) of the statutes, ~~as affected by 2007 Wisconsin Act~~

23 ~~20~~ is amended to read:

24 48.645 (1) (a) The child is living in a foster home or treatment foster home
25 licensed under s. 48.62 if a license is required under that section, in a foster home

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1 or treatment foster home located within the boundaries of a ~~federally recognized~~
2 ~~American Indian~~ reservation in this state and licensed by the tribal governing body
3 of the reservation, in a group home licensed under s. 48.625, in a subsidized
4 guardianship home under s. 48.62 (5), or in a residential care center for children and
5 youth licensed under s. 48.60, and has been placed in the foster home, treatment
6 foster home, group home, subsidized guardianship home, or center by a county
7 department under s. 46.215, 46.22, or 46.23, by the department, or by a ~~federally~~
8 ~~recognized American Indian tribal~~ governing body of an Indian tribe in this state
9 under an agreement with a county department under s. 46.215, 46.22, or 46.23.

10 **SECTION 175.** 48.645 (2) (a) 1. of the statutes, ~~as affected by 2007 Wisconsin Act~~
11 ~~20,~~ is amended to read:

12 48.645 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
13 home or treatment foster home having a license under s. 48.62, in a foster home or
14 treatment foster home located within the boundaries of a ~~federally recognized~~
15 ~~American Indian~~ reservation in this state and licensed by the tribal governing body
16 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
17 or interim caretaker under s. 48.62 (5) who cares for the dependent child, or a minor
18 custodial parent who cares for the dependent child, regardless of the cause or
19 prospective period of dependency. The state shall reimburse counties pursuant to the
20 procedure under s. 48.569 (2) and the percentage rate of participation set forth in s.
21 48.569 (1) (d) for aid granted under this section except that if the child does not have
22 legal settlement in the granting county, state reimbursement shall be at 100%. The
23 county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48
24 (17) shall determine the legal settlement of the child. A child under one year of age

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1 shall be eligible for aid under this subsection irrespective of any other residence
2 requirement for eligibility within this section.

3 } **SECTION 176.** 48.645 (2) (a) 3. of the statutes, ~~as affected by 2007 Wisconsin Act~~
4 ~~20~~ is amended to read:

5 48.645 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
6 the department, when the child is placed in a licensed foster home, treatment foster
7 home, group home, or residential care center for children and youth or in a subsidized
8 guardianship home by a licensed child welfare agency or by a ~~federally recognized~~
9 ~~American Indian tribal~~ governing body of an Indian tribe in this state or by its
10 designee, if the child is in the legal custody of the county department under s. 46.215,
11 46.22, or 46.23 or the department under s. 48.48 (17) or if the child was removed from
12 the home of a relative as a result of a judicial determination that continuance in the
13 home of the relative would be contrary to the child's welfare for any reason and the
14 placement is made under an agreement with the county department or the
15 department.

16 } **SECTION 177.** 48.645 (2) (a) 4. of the statutes, ~~as affected by 2007 Wisconsin Act~~
17 ~~20~~ is amended to read:

18 48.645 (2) (a) 4. A licensed foster home, treatment foster home, group home,
19 or residential care center for children and youth or a subsidized guardianship home
20 when the child is in the custody or guardianship of the state, when the child is a ward
21 of ~~an American Indian~~ a tribal court in this state and the placement is made under
22 an agreement between the department and the ~~tribal~~ governing body of the Indian
23 tribe of the tribal court, or when the child was part of the state's direct service case
24 load and was removed from the home of a relative as a result of a judicial

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determination that continuance in the home of a relative would be contrary to the child's welfare for any reason and the child is placed by the department.

SECTION 178. 48.645 (2) (b) of the statutes, ~~as affected by 2007 Wisconsin Act 20~~ is amended to read:

48.645 (2) (b) Notwithstanding par. (a), aid under this section may not be granted for placement of a child in a foster home or treatment foster home licensed by a ~~federally recognized American Indian tribal~~ governing body of an Indian tribe, for placement of a child in a foster home, treatment foster home, group home, subsidized guardianship home, or residential care center for children and youth by a ~~tribal~~ governing body of an Indian tribe or its designee, or for the placement of a child who is a ward of a tribal court if the ~~tribal~~ governing body of the Indian tribe of the tribal court is receiving or is eligible to receive funds from the federal government for that type of placement.

~~**SECTION 179.** 48.685 (1) (br) of the statutes is repealed.~~

SECTION 180. 48.685 (1) (e) of the statutes is repealed.

SECTION 181. 48.685 (5) (a) of the statutes, ~~as affected by 2007 Wisconsin Act 20~~ is amended to read:

48.685 (5) (a) Subject to par. (bm), the department may license to operate an entity, a county department may certify under s. 48.651, a county department or a child welfare agency may license under s. 48.62 and a school board may contract with under s. 120.13 (14) a person who otherwise may not be licensed, certified or contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may employ, contract with, or permit to reside at the entity a person who otherwise may not be employed, contracted with, or permitted to reside at the entity for a reason specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the

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1 county department, the child welfare agency, or the school board or, in the case of an
2 entity that is located within the boundaries of a reservation, to the person or body
3 designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence
4 and in accordance with procedures established by the department by rule or by the
5 tribe that he or she has been rehabilitated.

6 **SECTION 182.** 48.685 (5d) (a) (intro.) of the statutes is amended to read:

7 48.685 (5d) (a) (intro.) Any Indian tribe that chooses to conduct rehabilitation
8 reviews under sub. (5) shall submit to the department a rehabilitation review plan
9 that includes all of the following:

10 **SECTION 183.** 48.685 (5d) (a) 2. of the statutes is amended to read:

11 48.685 (5d) (a) 2. The title of the person or body designated by the Indian tribe
12 to whom a request for review must be made.

13 **SECTION 184.** 48.685 (5d) (a) 3. of the statutes is amended to read:

14 48.685 (5d) (a) 3. The title of the person or body designated by the Indian tribe
15 to determine whether a person has been rehabilitated.

16 **SECTION 185.** 48.685 (5d) (a) 3m. of the statutes is amended to read:

17 48.685 (5d) (a) 3m. The title of the person or body, designated by the Indian
18 tribe, to whom a person may appeal an adverse decision made by the person specified
19 under subd. 3. and whether the Indian tribe provides any further rights to appeal.

20 **SECTION 186.** 48.685 (5d) (a) 4. of the statutes is amended to read:

21 48.685 (5d) (a) 4. The manner in which the Indian tribe will submit information
22 relating to a rehabilitation review to the department so that the department may
23 include that information in its report to the legislature required under sub. (5g).

24 **SECTION 187.** 48.685 (5d) (b) of the statutes is amended to read:

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1 48.685 (5d) (b) If, within 90 days after receiving the plan, the department does
2 not disapprove the plan, the plan shall be considered approved. If, within 90 days
3 after receiving the plan, the department disapproves the plan, the department shall
4 provide notice of that disapproval to the Indian tribe in writing, together with the
5 reasons for the disapproval. The department may not disapprove a plan unless the
6 department finds that the plan is not rationally related to the protection of clients.
7 If the department disapproves the plan, the Indian tribe may, within 30 days after
8 receiving notice of the disapproval, request that the secretary review the
9 department's decision. A final decision under this paragraph is not subject to further
10 review under ch. 227.

11 **SECTION 188.** 48.825 (1) (b) of the statutes is amended to read:

12 48.825 (1) (b) "Another jurisdiction" means a state of the United States other
13 than Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, any
14 territory or insular possession subject to the jurisdiction of the United States or a
15 federally recognized American an Indian tribe ~~or band~~.

16 **SECTION 189.** 48.83 (1) of the statutes is amended to read:

17 48.83 (1) The Except as provided in s. 48.028 (3) (b), the court of the county
18 where the proposed adoptive parent or child resides, upon the filing of a petition for
19 adoption or for the adoptive placement of a child, has jurisdiction over the child until
20 the petition is withdrawn, denied, or granted. Venue shall be in the county where
21 the proposed adoptive parent or child resides at the time the petition is filed. The
22 court may transfer the case to a court in the county in which the proposed adoptive
23 parents reside.

24 **SECTION 190.** 48.831 (1r) of the statutes is created to read:

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if the identity or location of the Indian child's Indian custodian or tribe cannot be determined

1 48.831 (1r) NOTICE. When a petition is filed under sub. (1m), the court shall
2 provide notice of the fact-finding hearing under sub. (3) to all interested parties as
3 provided in s. 48.27 (6). If the court knows or has reason to know that the child is
4 an Indian child, the court shall provide notice to the Indian child's Indian custodian,
5 if any, and tribe, if known, in the manner specified in s. 48.028 (4) (a). No hearing
6 may be held under sub. (3) until at least 10 days after receipt of the notice by the
7 Indian child's Indian custodian and tribe or until at least ~~10~~ ⁽¹⁵⁾ days after receipt of the
8 notice by the U.S. secretary of the interior. On request of the Indian child's Indian
9 custodian or tribe, the court shall grant a continuance of up to 20 additional days to
10 enable the requester to prepare for the hearing.

11 **SECTION 191.** 48.831 (2) of the statutes is amended to read:

12 48.831 (2) REPORT. If the department, county department, or child welfare
13 agency files a petition, ~~it shall submit~~ the court shall order the department, county
14 department, or child welfare agency to file a report to with the court containing as
15 much of the information specified under s. 48.425 (1) (a) and (am) as is reasonably
16 ascertainable and, if applicable, the information specified under s. 48.425 (1) (g). If
17 the petition is filed by a relative or other person specified under sub. (1m) (d), the
18 court shall order the department or a child welfare agency, if the department or
19 agency consents, or a county department to file a report containing the information
20 specified in this subsection. If the child is an Indian child, the court may order the
21 department, county department, or child welfare agency, or request the tribal child
22 welfare department of the Indian child's tribe, if that department consents, to file a
23 report containing the information specified in this subsection. The department,
24 county department or, child welfare agency, or tribal child welfare department, if

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1 that department consents, shall file the report at least 5 days before the date of the
2 fact-finding hearing on the petition. *the court finds*

3 **SECTION 192.** 48.831 (4) (cm) of the statutes is created to read:

4 48.831 (4) (cm) If the child is an Indian child who is in the custody of an Indian
5 custodian, the court may not remove the child from the custody of the Indian
6 custodian under par. (c) unless the court finds by clear and convincing evidence,
7 including the testimony of one or more qualified expert witnesses, that continued
8 custody of the Indian child by the Indian custodian is likely to result in serious
9 emotional or physical damage to the child under s. 48.028 (4) (d) 1. and that the
10 department, county department, or child welfare agency has made active efforts
11 under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those
12 efforts have proved unsuccessful. In placing an Indian child following a transfer of
13 guardianship and custody under par. (b) or (c), the custodian appointed under par.
14 (b) or (c) shall comply with the order of placement preference under s. 48.028 (7) (b)
15 or, if applicable, s. 48.028 (7) (c), unless there is good cause, as described in s. 48.028
16 (7) (e), for departing from that order.

17 ~~**SECTION 193.** 48.833 of the statutes, as affected by 2005 Wisconsin Act 293, is~~
18 amended to read:

19 **48.833 Placement of children for adoption by the department, county**
20 **departments, and child welfare agencies.** The department, a county
21 department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under
22 s. 48.60 may place a child for adoption in a licensed foster home or a licensed
23 treatment foster home without a court order if the department, county department,
24 or child welfare agency is the guardian of the child or makes the placement at the
25 request of another agency that is the guardian of the child and if the proposed

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SECTION 193

1 adoptive parents have completed the preadoption preparation required under s.
2 48.84 (1) or the department, county department, or child welfare agency determines
3 that the proposed adoptive parents are not required to complete that preparation.
4 In placing an Indian child for adoption under this section, the department, county
5 department, or child welfare agency shall comply with the order of placement
6 preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the
7 department, county department, or child welfare agency finds good cause, as
8 described in s. 48.028 (7) (e), for departing from that order. When a child is placed
9 under this section in a licensed foster home or a licensed treatment foster home for
10 adoption, the department, county department, or child welfare agency making the
11 placement shall enter into a written agreement with the proposed adoptive parent,
12 which shall state the date on which the child is placed in the licensed foster home or
13 licensed treatment foster home for adoption by the proposed adoptive parent.

14 **SECTION 194.** 48.837 (2) (e) of the statutes is created to read:

15 48.837 (2) (e) If the child is an Indian child, the names and addresses of the
16 Indian child's Indian custodian, if any, and tribe, if known.

17 **SECTION 195.** 48.837 (4) (c) of the statutes is amended to read:

18 48.837 (4) (c) Shall, when the petition has been filed under sub. (1), order the
19 department or a county department under s. 48.57 (1) (e) or (hm) to investigate the
20 proposed adoptive placement, to interview each petitioner, to provide counseling if
21 requested, and to report its recommendation to the court at least 5 days before the
22 hearing on the petition. If a licensed child welfare agency or, in the case of an Indian
23 child, the tribal child welfare department of the Indian child's tribe has investigated
24 the proposed adoptive placement and interviewed the petitioners, the court may
25 accept a report and recommendation from the child welfare agency or tribal child

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1 welfare department in place of the court-ordered report required under this
2 paragraph. In reporting its recommendations under this paragraph with respect to
3 an Indian child, the department, a county department, or a child welfare agency shall
4 comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable,
5 s. 48.028 (7) (c), unless the department, county department, or child welfare agency
6 finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

7 ~~SECTION 196. 48.837 (4) (d) of the statutes is amended to read:~~

8 ~~48.837 (4) (d) May, at the request of a petitioning parent, or on its own motion~~
9 ~~after ordering the child taken into custody under s. 48.19 (1) (c), order the~~
10 ~~department or a county department under s. 48.57 (1) (e) or (hm) to place the child,~~
11 ~~pending the hearing on the petition, in any home licensed under s. 48.62 except the~~
12 ~~home of the proposed adoptive parents or a relative of the proposed adoptive parents.~~
13 ~~In placing an Indian child under this paragraph, the department or county~~
14 ~~department shall comply with the order of placement preference under s. 48.028 (7)~~
15 ~~(b) or, if applicable, s. 48.028 (7) (c), unless the department or county department~~
16 ~~finds good cause, as described in s. 48.028 (7) (e), for departing from that order~~

17 **SECTION 197.** 48.837 (6) (c) of the statutes is amended to read:

18 48.837 (6) (c) After the hearing on the petition under sub. (2), the court shall
19 make findings on the allegations of the petition and the report ordered under sub.
20 (4) (c) and make a conclusion as to whether placement in the home is in the best
21 interest of the child. In determining whether placement of an Indian child in the
22 home is in the best interest of the Indian child, the court shall comply with the order
23 of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless
24 the court finds good cause, as described in s. 48.028 (7) (e), for departing from that
25 order.

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SECTION 198

1 **SECTION 198.** 48.85 (1) of the statutes is amended to read:

2 48.85 (1) At least 10 days prior to the hearing, the guardian shall file its
3 recommendation with the court. In making a recommendation under this subsection
4 with respect to an Indian child, the guardian shall comply with the order of
5 placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

6 **SECTION 199.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

7 48.88 (2) (a) (intro.) Except as provided under ~~par. (a)~~ and (c), when a
8 petition to adopt a child is filed, the court shall order an investigation to determine
9 whether the child is a proper subject for adoption and whether the petitioner's home
10 is suitable for the child. The court shall order one of the following to conduct the
11 investigation:

12 **SECTION 200.** 48.88 (2) (ag) of the statutes is created to read:

13 48.88 (2) (ag) If the child is an Indian child, ~~the court shall order an investigation~~
14 ~~under par. (a)~~ the court may request the tribal child welfare department of the
15 Indian child's tribe, ~~if that department consents,~~ to conduct the investigation.

16 **SECTION 201.** 48.88 (2) (b) of the statutes is amended to read:

17 48.88 (2) (b) The agency or tribal child welfare department making the
18 investigation shall file its report with the court at least 10 days before the hearing
19 unless the time is reduced for good cause shown by the petitioner. In reporting on
20 an investigation of the proposed adoptive home of an Indian child, the agency shall
21 comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable,
22 s. 48.028 (7) (c), unless the agency finds good cause, as described in s. 48.028 (7) (e),
23 for departing from that order. The report shall be part of the record of the
24 proceedings.

25 **SECTION 202.** 48.89 (1) of the statutes is amended to read:

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1 48.89 (1) The recommendation of the department is required for the adoption
2 of a child if the child is not under the guardianship of a county department under s.
3 48.57 (1) (e) or (hm) or a child welfare agency under s. 48.61 (5). In making a
4 recommendation under this subsection with respect to an Indian child, the
5 department shall comply with the order of placement preference under s. 48.028 (7)
6 (a) or, if applicable, s. 48.028 (7) (c), unless the department finds good cause, as
7 described in s. 48.028 (7) (e), for departing from that order.

8 **SECTION 203.** 48.91 (3) of the statutes is amended to read:

9 48.91 (3) If after the hearing and a study of the report required by s. 48.88 and
10 the recommendation required by s. 48.841 or 48.89, the court is satisfied that the
11 necessary consents or recommendations have been filed and that the adoption is in
12 the best interests of the child, the court shall make an order granting the adoption.
13 In determining whether the adoption is in the best interests of an Indian child, the
14 court shall comply with the order of placement preference under s. 48.028 (7) (a) or,
15 if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s.
16 48.028 (7) (e), for departing from that order. The order may change the name of the
17 minor to that requested by petitioners.

18 **SECTION 204.** 48.93 (1d) of the statutes, ~~as affected by 2007 Wisconsin Act 20,~~
19 is amended to read:

20 48.93 (1d) All records and papers pertaining to an adoption proceeding shall
21 be kept in a separate locked file and may not be disclosed except under sub. (1g) or,
22 (1r), or (1v), s. 48.432, 48.433, 48.434, 48.48 (17) (a) 9. or 48.57 (1) (j), or by order of
23 the court for good cause shown.

24 **SECTION 205.** 48.93 (1v) of the statutes is created to read:

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1 48.93 (1v) (a) At the time a court enters an order granting adoption of an Indian
2 child, the court shall provide the U.S. secretary of the interior with the information
3 specified in s. 48.028 (9) (a) and (b).

4 (b) At the request of an Indian adoptee who is 18 years of age or older, the court
5 that entered the order granting adoption of the adoptee shall provide or arrange to
6 provide the adoptee with the information specified in s. 48.028 (9) (c).

7 **SECTION 206.** 48.977 (4) (a) 1. of the statutes is amended to read:

8 48.977 (4) (a) 1. The child or the child's guardian ~~or~~, legal custodian, or Indian
9 custodian.

10 **SECTION 207.** 48.977 (4) (b) 6. of the statutes is amended to read:

11 48.977 (4) (b) 6. A statement of whether the child may be subject to the federal
12 Indian ~~child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963, and, if the child may
13 be subject to that act, the names and addresses of the child's Indian custodian, if any,
14 and Indian tribe, if known.

15 **SECTION 208.** 48.977 (4) (c) 1. j. of the statutes is created to read:

16 48.977 (4) (c) 1. j. If the child is an Indian child, the Indian child's Indian
17 custodian, if any, and tribe, if known.

18 **SECTION 209.** 48.977 (4) (c) 2. of the statutes is amended to read:

19 48.977 (4) (c) 2. ~~Service~~ Except as provided in subd. 2m., service shall be made
20 by 1st class mail at least 7 days before the hearing or by personal service at least 7
21 days before the hearing or, if with reasonable diligence a party specified in subd. 1.
22 cannot be served by mail or personal service, service shall be made by publication of
23 a notice published as a class 1 notice under ch. 985. In determining which newspaper
24 is likely to give notice as required under s. 985.02 (1), the petitioner shall consider

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SECTION 209

[^] if the identity or location of the Indian child
^Δ parent, ^Δ Indian custodian, or tribe cannot be determined,^Δ

the residence of the party, if known, or the residence of the relatives of the party, if known, or the last-known location of the party.

SECTION 210. 48.977 (4) (c) 2m. of the statutes is created to read:

48.977 (4) (c) 2m. If the petitioner knows or has reason to know that the child is an Indian child, service under subd. 2. to the Indian child's parent, Indian custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing may be held under par. (cm) until at least 10 days after receipt of service by the Indian child's parent, Indian custodian, and tribe or, until at least ⁽¹⁰⁾ ~~21~~ days after receipt of service by the U.S. secretary of the interior. On request of the Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

SECTION 211. 48.977 (4) (g) 4. of the statutes is created to read:

48.977 (4) (g) 4. If the child is an Indian child, the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

SECTION 212. 48.978 (2) (b) 11. of the statutes is amended to read:

48.978 (2) (b) 11. A statement of whether the child may be subject to the federal Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the child may be subject to that act, the names and addresses of the child's Indian custodian, if any, and Indian tribe, if known.

SECTION 213. 48.981 (1) (cs) of the statutes is renumbered 48.02 (8g) and amended to read:

48.02 (8g) "Indian child" means any unmarried person who is under the age of 18 years and is affiliated with an Indian tribe ~~or band~~ in any of the following ways:

1. As a member of the Indian tribe ~~or band~~.

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1 2. As a person who is both eligible for membership in the Indian tribe ~~or band~~
2 and is the biological child of a member of the Indian tribe ~~or band~~.

3 **SECTION 214.** 48.981 (1) (ct) of the statutes is amended to read:

4 48.981 (1) (ct) "Indian unborn child" means an unborn child who, when born,
5 may be eligible for affiliation with an Indian tribe ~~or band~~ in any of the following
6 ways:

7 1. As a member of the Indian tribe ~~or band~~.

8 2. As a person who is both eligible for membership in the Indian tribe ~~or band~~
9 and the biological child of a member of the Indian tribe ~~or band~~.

10 **SECTION 215.** 48.981 (1) (i) of the statutes is amended to read:

11 48.981 (1) (i) "Tribal agent" means the person designated under 25 CFR 23.12
12 by an Indian tribe ~~or band~~ to receive notice of involuntary child custody proceedings
13 under the ~~Indian child welfare act~~ federal Indian Child Welfare Act, 25 USC 1901
14 to 1963.

15 **SECTION 216.** 48.981 (3) (bm) (intro.) of the statutes is amended to read:

16 48.981 (3) (bm) *Notice of report to Indian* tribal agent ~~tribe~~ (intro.) In a county
17 ~~which~~ that has wholly or partially within its boundaries a ~~federally recognized~~
18 ~~Indian~~ reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe,
19 if a county department ~~which~~ that receives a report under par. (a) pertaining to a
20 child or unborn child knows or has reason to know that the child is an Indian child
21 who resides in the county or that the unborn child is an Indian unborn child whose
22 expectant mother resides in the county, the county department shall provide notice,
23 which shall consist only of the name and address of the Indian child or expectant
24 mother and the fact that a report has been received about that Indian child or Indian
25 unborn child, within 24 hours to one of the following: